

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

CYBER ENGINEERING SERVICES, INC.,

Plaintiff,

v.

(1) DELL, INC., dba DELL SERVICES, and  
(2) SECUREWORKS, INC., dba DELL  
SECUREWORKS,

Defendants.

CIVIL ACTION NO. 2:13-cv-1106

ORIGINAL COMPLAINT FOR  
PATENT INFRINGEMENT

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff CYBER ENGINEERING SERVICES, INC. files this Complaint against the above-named defendants, alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

**PARTIES**

1. Plaintiff Cyber Engineering Services, Inc. (“Cyber Engineering”) is a Maryland corporation. Cyber Engineering has its principal place of business in Columbia, Maryland.

2. Defendant Dell, Inc. dba Dell Services (“Dell Services”) is a corporation organized and existing under the laws of the State of Delaware with a principal place of business located at 2300 West Plano Parkway; Plano, Texas 75075. Dell Services can be served via its registered agent for service of process: Corporation Service Company, 211 E. 7<sup>th</sup> Street, Suite 620; Austin, Texas 78701.

3. Defendant SecureWorks, Inc. dba Dell SecureWorks (“Dell SecureWorks”) is a corporation organized and existing under the laws of the state of Georgia with a principal place of business located in Atlanta, Georgia. In 2011, Dell Services acquired Dell SecureWorks and Dell SecureWorks began operation as a Dell Services subsidiary. Dell SecureWorks can be

served via its registered agent for service of process: Corporation Service Company, 211 E 7<sup>th</sup> Street, Suite 620; Austin, Texas 78701.

### **JURISDICTION AND VENUE**

4. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. §1331 and §1338(a).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Defendants have transacted business in this district, and have committed and/or induced acts of patent infringement in this district.

6. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

### **INFRINGEMENT OF U.S. PATENT NO. 8,291,500**

7. On October 16, 2012, United States Patent No. 8,291,500 ("the '500 patent") was duly and legally issued by the United States Patent and Trademark Office for an invention entitled "Systems and Methods for Automated Malware Artifact Retrieval and Analysis." A true and correct copy of the '500 patent is attached hereto as Exhibit A.

8. Cyber Engineering is the owner of the '500 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '500 patent against infringers, and to collect damages for all relevant times.

9. Defendants have infringed the '500 patent by using the patented method. Defendants' Counter Threat Unit (CTU) uses the patented method to identify malware artifacts and to provide malware-threat intelligence to its customers. For example, defendants' CTU used the patented method to analyze the Comfoo Advanced Persistent Threat malware as described in

the July 2013 article, “Secrets of the Comfoo Masters” by Joe Stewart and Don Jackson. Additionally, defendants infringe the patented method by using, selling, and offering to sell, the products resulting from their use of the patented method. Defendants sell products resulting from their practice of the patented method, including at least intelligence reports offered as part of their “Managed Advanced Malware Protection” services.

10. Cyber Engineering has been damaged as a result of the infringing conduct by defendants and, thus, defendants are liable to Cyber Engineering in an amount that adequately compensates it for their infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

#### **JURY DEMAND**

Cyber Engineering hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure of any issues so triable by right.

#### **PRAYER FOR RELIEF**

Cyber Engineering requests that the Court find in its favor and against defendants, and that the Court grant Cyber Engineering the following relief:

- a. Judgment that one or more claims of United States Patent No. 8,291,500 has been infringed, either literally and/or under the doctrine of equivalents, by defendants;
- b. Judgment that defendants account for and pay to Cyber Engineering all damages to and costs incurred by Cyber Engineering because of defendants’ infringing activities and other conduct complained of herein;
- c. That defendants’ infringements be found to be willful, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- d. That Cyber Engineering be granted pre-judgment and post-judgment interest on the damages caused by defendants’ infringing activities and other conduct complained of herein;
- e. That this Court declare this an exceptional case and award Cyber Engineering its reasonable attorney’s fees and costs in accordance with 35 U.S.C. § 285; and
- f. That Cyber Engineering be granted such other and further relief as the Court may

deem just and proper under the circumstances.

Dated: December 13, 2013

Respectfully submitted,

/s/ Matthew J. Antonelli

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